

Appl. No. 10/081,556
Amdt. dated [insert date]
Reply to Office Action of September 30, 2003

PATENT

REMARKS/ARGUMENTS

Discussion of Claim Rejections Under 35 U.S.C. § 103(a)

Claims 19-38 are pending in the application. The Office Action rejects Claims 19-38 as allegedly unpatentable in light of U.S. Patent No. 6,085,976 to Sehr (hereinafter Sehr). The reference to 35 U.S.C. 102(a) on page 2 of the Office Action is assumed to be a typographic error because the prior statutory citation refers to 35 U.S.C. 103(a). Applicant respectfully traverses the rejection and requests reconsideration and allowance of all claims for the reasons provided below.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re* Vaack, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Additionally, the mere fact that a reference can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re* Mills, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990)

Sehr fails to teach or suggest all of the features of Claim 19. Indeed, the Office Action acknowledges that Sehr fails to teach or suggest all claimed features. However, the Office Action alleges that it would have been a matter of design choice to modify Sehr to include the feature of "determining a sum of the purchased fare values for a time period and awarding the best fare includes comparing said sum of the purchased fare values to a price point of the price point table, because it appears that the claimed feature does not distinguish the invention over similar features in the prior art, and the teachings of Sehr would perform the invention as

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Sehr also fails to teach or suggest any motivation for modifying what is taught in the reference. Sehr does not disclose any motivation for downloading price point tables, nor the motivation for adding the load list processor for performing such action. Sehr also fails to teach or suggest any rolling time periods or how such rolling time periods could be implemented in the disclosed systems or methods.

Therefore, Applicant respectfully requests reconsideration and allowance of Claim 19, because Sehr fails to disclose numerous claimed features, and Sehr fails to provide any motivation to modify the reference teachings to include the missing claimed features.

Claim 28 includes downloading at least one price point table to the at least one mass transit device, the at least one price point table having at least one price point comprising a maximum fare and a maximum number of days. Claim 28 also includes comparing a sum of the purchased fare values for a time period to the at least one price point of the at least one price point table, the time period comprising at least a portion of the plurality of fare transactions. Claim 36 include a similar feature where a price point table includes at least one price point comprising a maximum number of days corresponding to a maximum fare. Also, Claim 36 includes a best fare processor for comparing the fare transaction data stored on the smart card to the maximum number of days and the maximum fare of each price point to determine a best fare over a rolling time period. Thus Claims 28 and 36 are believed to be allowable for at least the reasons provided above in relation to Claim 19. Applicant respectfully request reconsideration and allowance of Claims 28 and 36 because Sehr fails to teach or suggest every claimed feature and fails to provide any motivation to modify the reference.

Discussion of Dependent Claims

Claims 20-27, 29-35, and 37-38 depend, either directly or indirectly, from one of Claims 19, 28, or 36 and are believed to be allowable at least for the reason that they depend from an allowable base claim. Applicant respectfully requests reconsideration and allowance of Claims 20-27, 29-35, and 37-38.

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claimed by the applicant with algorithm for determining a sum being of any structure." Office Action page 3 ll. 9-14.

Applicant respectfully contends that there are numerous claimed features that are not taught nor suggested by Sehr. Claim 19 recites a system for implementing a best fare. The system includes a "base fare data base for storing a plurality of price point tables, each price point table of the plurality of price point tables comprising at least one price point having a maximum fare corresponding to a maximum number of days." Claim 19 ll. 6-9. An example of an entry in a price point table is provided in Applicant's specification. "Table 1 illustrates an example in which a price point is a seven day pass set at \$25." Specification at page 11, para. [0028] and Table 1. The price points referred to in Applicant's claims can refer to a fare in a fare schedule. *See, for example*, Applicant's Specification at paragraph [0013]. The system of Claim 19 also includes "a value load list processor for downloading at least one of the plurality of price point tables to at least one mass transit device." Claim 19 ll. 10-12. In addition, the system of Claim 19 includes a "best fare processor for analyzing as rolling time period comprising a portion of the fare transaction data stored on the smart card." *Id.* at ll. 22-24.

Sehr discloses a travel system having multi-application passenger cards that can be used for traveling purposes, purchase of travel-related goods and services, and for the implementation of other card-based applications. *See generally*, Sehr Abstract. The passenger card can store a monetary value or electronic payment points that may be used in lieu of money. *See* Sehr Col. 9 ll. 12-15 and Col. 10 ll. 52-62. The electronic payment points discussed in Sehr correspond to , for example, frequent flyer points that may be redeemed for flights.

Sehr fails to disclose a database storing a price point table and, in fact, fails to even disclose or suggest any price point tables comprising a price point having a maximum fare corresponding to a maximum number of days. Moreover, because Sehr fails to disclose a database for storing a plurality of price point tables, Sehr also fails to disclose a value load list processor. Similarly, Sehr fails to disclose or suggest a best fare processor that analyzes a rolling time period. In fact, Sehr fails to teach or suggest any rolling time period, and thus does not teach or suggest a rolling time period comprising a portion of fare transaction data stored on a smart card.

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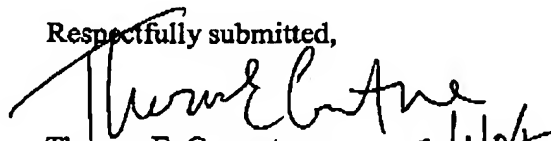
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CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The claimed features and supporting remarks are only provided to illustrate exemplary features not disclosed or suggested in the cited references. The claims may be patentable over the cited references based on features and supporting arguments not discussed above. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 858-350-6100.

Respectfully submitted,


Thomas E. Coverstone
Reg. No. 36,492

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 858-350-6100
Fax: 415-576-0300
Attachments
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